



November 7, 2014

VIA OVERNIGHT DELIVERY

Ms. Bonnie Hriczko

U.S. Environmental Protection Agency, Region II
2890 Woodbridge Avenue, MS-211
Edison, New Jersey 08837

**Re: Request for Information Pursuant to Section 104 of CERCLA
Superior Barrel and Drum Site, Elk, Gloucester County, New
Jersey**

Dear Ms. Hriczko:

We are responding to the referenced letter, which Bayer CropScience Inc. ("**BCSI**") received on September 3, 2014, and subsequently by me (the "**Information Request**"). On September 30, 2014, you granted an extension to BCSI allowing it to respond on or before November 7, 2014. BCSI sets forth its responses to the Information Request related to the above-referenced NPL Site (the "**Site**") below:

Preliminary Statement

BCSI is willing to work with USEPA to provide it with information to the extent that it is relevant and reasonably obtained, subject to the following objections. (the "**General Objections**"):

A. BCSI asserts all applicable privileges and protections it has with regard to USEPA's enumerated inquiries including the attorney-client privilege, the attorney work product doctrine, materials generated in anticipation of litigation, and privileges for materials which are proprietary, company confidential, or trade secret. CERCLA does not require a party to divulge such information in response to information requests;

B. BCSI objects to the requests on the grounds that the requests use undefined terms and are overbroad, vague, ambiguous, irrelevant and unduly burdensome so as to exceed statutory authority under CERCLA and contravene BCSI's constitutional rights. In responding to these requests, BCSI relies on the definition of these terms as they are commonly used (*i.e.*, their dictionary definitions);

C. BCSI objects to the requests on the grounds that the requests are overbroad and unduly burdensome in that they seek information about a Site that BCSI neither owned nor operated. As such each of these requests exceeds USEPA's statutory authority under CERCLA and contravenes BCSI's rights;

Chintan K. Amin
Senior Counsel
Corporate Law

Bayer Corporation
100 Bayer Road, Building 5
Pittsburgh, PA 15205-9741

Phone 412 777-2715
Fax 412 777-4740
chintan.amin@bayer.com



D. BCSI objects to any requirement to produce documents or information already in the possession of a government agency, or already in the public domain. Such requirement is duplicative and, therefore, unduly burdensome;

E. BCSI hereby reserves the right but disavows any obligation to supplement these responses on an ongoing basis. CERCLA Section 104(e)(2) authorizes USEPA to require submission of information upon reasonable notice. BCSI conducted a review of available records that was practicable given the time period BCSI had to respond to this request and has supplied information concerning the facilities which was found during that review. If more information is desired, BCSI respectfully requests further reasonable notice that such information is desired;

F. BCSI objects to the requests to the extent they call for BCSI to make a legal conclusion concerning BCSI's potential liability under CERCLA for the Site, which liability is not admitted but is expressly denied;

G. BCSI objects to the requests to the extent they seek trade secrets or other confidential business information; and

H. Notwithstanding and without waiving these objections, and subject to them, BCSI has prepared this response based upon the information available to it. Where the requests are considered vague, ambiguous, overbroad, unduly burdensome, or beyond the scope of USEPA's authority pursuant to Section 104(e) of CERCLA, BCSI is making appropriate and reasonable efforts to provide responsive information based on BCSI's interpretation of the requests. To the extent that information submitted herein is not required by law or is otherwise outside the scope of USEPA's 104(e) authority, that information is voluntarily submitted. BCSI waives no rights or protection as to information it voluntarily submits.

Bayer CropScience Inc.'s Responses

Without waiving any of the foregoing General Objections, BCSI answers as follows:

1. a. *State the correct legal name of the Company.*

The correct legal name of the company is Bayer CropScience Inc.

b. *Identify the legal status of the Company (corporation, partnership, specify if other) and the state in which the Company was organized.*

BCSI is a New York Corporation and was formed in 1948 as Rhodia Inc. Through a series of name changes, this company assumed its current name in September 2002.

- c. *State the names and addresses of the President, Chairman of the Board and the Chief Executive Officer of the Company.*

BCSI objects to this request as irrelevant and unduly burdensome to the extent that it seeks information other than the business addresses of the identified persons. Notwithstanding and subject to such objections, BCSI provides the following information.

Jim Blome	Dirk Backhaus
President and Chief	Chairman of the Board
Executive Officer	Bayer CropScience Inc.
Bayer CropScience Inc.	Alfred-Nobel-Str. 50
2 TW Alexander Dr	40789 Monheim am Rhein
Research Triangle Park, NC	Germany
27709	

- d. *Provide the name of the attorney, if any, who will serve as the legal contact for your Company in this matter.*

Chintan K. Amin
Sr. Counsel
Bayer Corporation
100 Bayer Road
Pittsburgh, PA 15241

- e. *If your Company is a subsidiary or affiliate of another corporation, or has subsidiaries itself, identify each such entity and its relationship to your Company.*

BCSI objects to this request as irrelevant, unduly burdensome and beyond the scope of EPA's authority under 42 U.S.C. s. 9604(e). Notwithstanding and subject to such objections, BCSI states that BCSI is a member of the Bayer Group of affiliated companies. The companies of the Bayer Group are direct or indirect subsidiaries of Bayer AG, a publicly-traded, German company.

- f. *Identify the state and date of incorporation and the agent for service of process in the State of incorporation and in the State of New Jersey for your*

Company and for each entity identified in your response to Question 1(e), above.

BCSI objects to this request as irrelevant, unduly burdensome and beyond the scope of EPA's authority under 42 U.S.C. s. 9604(e). Notwithstanding and subject to such objections, BCSI refers to its response to question 1.b, above. BCSI states that its agents for service of process in New York and New Jersey are as follows:

Corporation Service
Company
80 State Street
Albany, NY 12207-2543

Corporation Service
Company
80 State Street
Albany, NY 12207-2543

- g. *If the Company is a successor to, or has been succeeded by another entity, identify each such other entity and provide the same information requested above for each.*

BCSI objects to this request as irrelevant, unduly burdensome and beyond the scope of EPA's authority under 42 U.S.C. s. 9604(e). Notwithstanding and subject to such objections, BCSI states that it is the successor to Rhone-Poulenc Inc., by name change, and certain other companies by either merger or name change. These predecessor companies are predecessors by simple name change or predecessors that have been merged with and into the legal entity currently known as "Bayer CropScience Inc."

- h. *If the Company transacted business with SBD in the name of an entity not already disclosed above, give the name of such entity and state its relationship to the Company.*

In response to this Information Request, BCSI has conducted a review of its available records and found no documents or other records evidencing any business or other relationship between BCSI or its predecessor entities and SBD. Therefore, this question is not applicable.

2. *State whether any of your Company's facilities has ever conducted any business transactions of any nature with Superior Barrel and Drum Company, Inc. ("SBD"), including but not limited to the sale, purchase, removal, disposal, treatment, or storage of any barrels, drums, totes, overpacks or other containers (hereinafter collectively referred to as "Containers"). Answer _____ YES; **X** NO.*

3. *If your answer to Question 2, above, is yes, identify each Company facility involved in all such transactions and provide the following information for each facility:*
- a. *State the name and address of each facility and describe each facility's operations;*
 - b. *For each facility, describe the nature of business relationship between that facility and SBD, including the nature of services rendered or products sold;*
 - c. *Provide copies of any contracts, agreements or other arrangements between that facility and SBD;*
 - d. *Provide copies of all permits issued pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. ("RCRA") for each facility; and*
 - e. *Identify the EPA RCRA identification number, if any, for each facility.*

Not applicable.

4. *If your answer to Question 2, above is yes, did any of the transactions between any company facility and SBD involve the transport or shipment of any Containers from that facility to SBD by any person, regardless of whether such Containers contained no material whatsoever, contained more or less than one inch of material, or may have been described as RCRA "empty"? Answer: _____ YES; _____ NO.*

Not applicable.

5. *If your answer to Question 4, above, is yes, for each such transaction provide the following information:*
- a. *Identify the specific dates of each transaction, the Company facility involved with each transaction, the intended purpose of each transaction, and the number and type of Containers involved in each transaction;*
 - b. *Provide copies of all documents relating in any way to each transaction, including but not limited to copies of delivery receipts, invoices, bills of lading, purchase orders or payment devices; and*
 - c. *Identify all persons who might have knowledge of the transaction or who had any responsibility regarding the transaction.*

Not applicable.

6. *For each Company facility identified in response to Question 5, above, for the time period from 1974 to 2013:*
- a. *Describe that facility's operations;*
 - b. *Identify all chemicals used as raw materials in that facility's operations;*
 - c. *Identify all chemicals contained in products produced at that facility;*
 - d. *Identify all chemicals used to clean equipment or machinery at that facility;*
 - e. *Identify the nature and chemical constituents of all waste streams at that facility and their disposition;*
 - f. *Identify any other chemicals used at that facility and describe their use;*
and
 - g. *Provide all Material Safety Data Sheets (MSDS) for all chemicals listed in answer to this Question 6.*

Not applicable.

7. *Was any Container identified in response to Question 5, above, previously used to contain any material? Answer: _____ YES; _____ NO. If your answer is yes, for each Container provide the following:*
- a. *Identify each material previously contained within such Container, including its specific chemical constituents, physical state, quantity by volume and weight, and hazardous and other characteristics;*
 - b. *Provide all written analyses or other documents prepared for or relating to each such material which may be in the custody or control of the Company; and*
 - c. *Provide all material safety data sheets (MSDS) relating to each such material.*

Not applicable.

8. *Did any Container that was the subject of any transaction identified in response to Question 5, above--**contain any material whatever**, in any quantity, at the time of its transport or shipment from the Company facility, regardless of whether or not it is or was ever alleged to be "empty"*

under RCRA, or alleged to contain less than one inch of material? Answer: _____ YES; _____ NO.

Not applicable.

9. *If your answer to Question 8 is yes, for each Container that contained any material whatever, in any quantity, at the time of its transport or shipment from the Company facility;*

- a. Identify each such material, including its specific chemical constituent(s), physical state, quantity by volume and weight, and hazardous and other characteristics;*
- b. Provide all written analyses or other documents prepared for or relating to each such material which may be in the custody or control of the Company; and*
- c. Provide all material safety data sheets (MSDS) relating to each such material.*

Not applicable.

10. *Do you contend that any Container that was the subject of any transaction identified in response to Question 5, above, did NOT contain any material whatever, in any quantity, at the time of its transport or shipment from the Company facility? Answer: _____ YES; _____ NO.*

Not applicable.

11. *If your answer to Question 10 is yes, for each such Container provide all facts upon which you rely for your assertion.*

Not applicable.

12. *For those transactions identified in responses to Question 5, was any treatment or cleaning of any Container performed by any person prior to the time that the Container was transported or shipped from the Company to SBD, including any process or procedure by which the Container was emptied, drained, wiped or otherwise cleaned? Answer: _____ YES; _____ NO.*

Not applicable.

13. *If your answer to Question 12, above, is yes, for each such Container provide a detailed description of all such treatment, including any emptying, draining, wiping or cleaning, and identify all chemicals used in such treatment or cleaning.*

Not applicable.

14. *For each transaction identified in response to Question 5 involving any third-party transporter; identify each such transporter, including the name and address of such transporter, and identify in which of the transactions such transporter acted.*

Not applicable.

15. *Identify each person consulted in responding to these questions and all questions on which he or she was consulted.*

Robert Lockemer
Remediation Manager
Bayer CropScience LP
2 TW Alexander Dr
Research Triangle Park, NC 27709

16. *Identify any other person or entity (e.g., individual, company, partnership, etc.) having knowledge of facts relating to the questions which are the subject of this inquiry. For each such person that you identify, provide the name, address, and telephone number of that person, and the basis of your belief that he or she has such knowledge. For past and present employees, include their job titles(s) and a description of the responsibilities.*

None.

17. *Supply any additional information or documents that may be relevant or useful to identify other sources who disposed of or transported Containers to the Site.*

We have reviewed photographs taken by EPA or its contractors of barrels and containers with RPI product-related labels found at the SBD site. Upon information and belief, these product labels may indicate that these drums may have been sent by users of virgin RPI products and not by an RPI-affiliated facility.

If EPA has evidence of a business connection between the SBD site and RPI distinct from the photographs already provided, we respectfully request that EPA provide us with such documentation. Please contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chintan K. Amin', written over the printed name.

Chintan K. Amin
Sr. Counsel
Bayer Corporation

Enclosures

cc: Mr. Robert Lockemer
Mr. William Tucker, Esq.

From: (412) 777-2881
Kathy Logut

Origin ID: PITA



Bayer Corporation
100 Bayer Road
Pittsburgh, PA 15205

Ship Date: 07NOV14
ActWgt: 1.0 LB
CAD: 101754827/INET3550

Delivery Address Bar Code



SHIP TO: (212) 637-3000

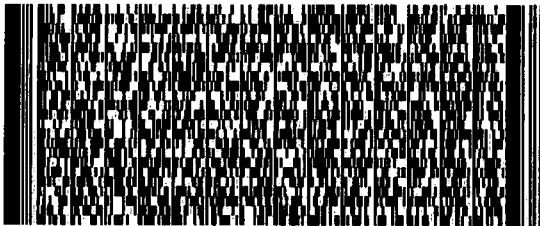
BILL SENDER

Ms. Bonnie Hriczko
US Environmental Protection Agency
Region II
2890 Woodbridge Avenue, MS-211
EDISON, NJ 08837

Ref #
Invoice #
PO #
Dept #

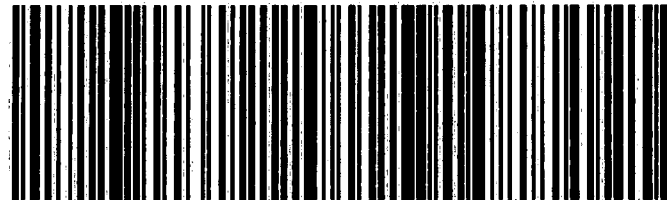
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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

Rhone-Polenc, Inc.
c/o Bayer Crop Sciences, Inc.
1000 Bayer Rd.
Pittsburgh, PA 15202
Attn: Chintan Amin

89EP 12:53PM

2. Article Number

(Transfer from service label)

7013	1090	0002	2838	0048
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COMPLETE THIS SECTION ON DELIVERY

A. Signature

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Agent

☐ Addressee

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C. Date of Delivery

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3. Service Type

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4. Restricted Delivery? (Extra Fee)

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Bonnie Hriczko
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